

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LORENZO SALAZAAR,

Plaintiff,

v.

No. CIV. 97-0503 LH/WWD

**THE CITY OF RATON, OFFICER
JEFF ENCINIAS, City of Raton
Police Officer,**

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Plaintiff's Motion for Attorney Fees (Docket No.84). The Court, having reviewed the briefs of the parties as well as the relevant case law, concludes that the ruling on this motion shall be **deferred**, pending the outcome of the appeals that have been filed in the Tenth Circuit Court of Appeals.

This matter was tried to a jury on February 22-24, 1999. An Amended Final Judgment was entered on July 16, 1999, awarding nominal damages and concluding that Plaintiff was a prevailing party. Plaintiff subsequently filed a Notice of Appeal from this judgment and from a

January 6, 1999 order that granted Defendants' Motion for Partial Summary Judgment in its entirety (Docket No. 34). In August, 1999, Defendants filed a Notice of Appeal from the Amended Final Judgment only.

Based upon the briefs of the parties, the Court understands that Plaintiff seeks a new trial and that Defendants seek to have overturned this Court's decision that Plaintiff is entitled to nominal damages and is a prevailing party. All of these issues on appeal, particularly the issue of whether or not Plaintiff is a prevailing party, have direct bearing on issue of attorney fees. In the interest of judicial economy, I will await the decision of the Tenth Circuit before I undertake the resolution of this issue.

WHEREFORE, IT IS HEREBY ORDERED that the ruling on Plaintiff's Motion for Attorney Fees (Docket No. 84) shall be **deferred**, pending the ruling of the Tenth Circuit Court of Appeals on the two appeals from this matter now before it.

IT IS SO ORDERED.



Lee Ray Hauser
U. S. DISTRICT COURT JUDGE